

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF CALIFORNIA

RYAN HENRY,)	No. CV-F-01-5867 MDC
)	(No. CR-F-98-5121 AWI)
)	
Petitioner,)	ORDER DECLINING TO ISSUE
)	CERTIFICATE OF APPEALABILITY
vs.)	
)	
UNITED STATES OF AMERICA,)	
)	
)	
Respondent.)	
)	
)	

The court hereby declines to issue a certificate of appealability with regard to petitioner's appeal of the "Order Deeming Petitioner's Motion Under Rule 60(b)(4), Federal Rules of Civil Procedure To Be a Second or Successive Motion for Relief Pursuant to 28 U.S.C. § 2255 and Dismissing Deemed Motion for Lack of Jurisdiction" filed on April 28, 2006. (Doc. 107).

Petitioner has not demonstrated jurists of reason would find it debatable that this court was correct in its procedural ruling that this court lacks jurisdiction in the absence of authorization from the Ninth Circuit to file a second or

1 successive motion pursuant to 28 U.S.C. § 2255 and that jurists
2 of reason would find it debatable whether petitioner's motion
3 states a valid claim of the denial of a constitutional right.
4 See Rosas v. Nielsen, 428 F.3d 1229, 1233 (9th Cir.2005).

5
6 IT IS SO ORDERED.

7 **Dated: June 27, 2006**
8 0m8i78

/s/ Anthony W. Ishii
UNITED STATES DISTRICT JUDGE